Jangbir

Vs

Mahavir Prasad Gupta

Civil Appeal No. 768 of 1972

(M.H. Beg, P.N. Shinghal JJ)

22.09.1976

JUDGMENT

BEG, J. -

1. Jangbir, appellant, is a tenant of a room in a house which was purchased by the respondent Mahavir Prasad Gupta on May 15, 1956, for Rs. 1930 shown in his sale deed as situated in "Khasra No. 203, Khewat No. 1, situated at Village Chowki Mubarakabad, Delhi Province, within the abadi of Onkar Nagar-II". The landlord owner had filed a suit for the ejectment of appellant and for recovery of rent which was dismissed by a Subordinate Judge of Delhi on May 26, 1966 on the ground that the jurisdiction of the civil court was barred by the Delhi Rent Control Act, 1958, (hereinafter referred to as 'the Act') which provided the only modes of relief for aggrieved landlords by proceeding under the Act.

2. The respondent landlord had alleged that the suit lay in the ordinary civil court and that it was governed by the provisions of the Transfer of Property Act inasmuch as the house, in which the appellant was the tenant of a room, fell outside the area to which the Act was applicable. The short question on which the case was decided was whether the house of the respondent was situated in an area to which the Act had been applied by a notification under Section 507(a) of the Delhi Municipal Corporation Act, 1957, dated January 7, 1960, published in the Delhi Gazette on January 17, 1960, read with the notification dated April 12, 1962 under Section 1, sub-section (2) of the Act, published in the Gazette of India on April 21, 1962.

3. The operative part of the notification of the Delhi Administration reads as follows :

> No. 9/5/59-R&S. - In exercise of the powers conferred by clause (a) of Section 507 of the Delhi Municipal Corporation Act, 1957 (66 of 1957), the Corporation with the previous approval of the Central Government hereby declares that the following localities mentioned in the Schedule given, below, hitherto forming part of the rural area, shall cease to be rural area.

Thereafter, was given a schedule and then came the heading : "Shahdara Zone". The schedule has 5 columns. The first is for the "serial No." The second is for the name of the "Revenue estate", which is translation of mauza, said to be an area composed of several villages, The third column is for the name of the actual village or colony of the mauza. It is headed "Name of Colony/Village proposed to be included in the urban area". The fourth column is for what is called the "square number". The last and the fifth column was headed : "Khasra/Killa Nos. covered by the Colony/ Villages". We are concerned here with serial No. 7 which has the entries indicated below made under the appropriate

number of each column :

> #1. No. 7.2. Chowkri Mubarakabad.3. Onkar Nagar, Lekhu Pura4. Square No. Not given.##
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> 5. Across "Onkar Nagar" are shown : "238, 242, 240, 234, 235, 236, 234, 231, 230 and 271"; and across "Lekhu Pura" are shown : "215 to 217, 211, 212 199 to 203".

4. The notification published in the Gazette of India on April 21, 1962, may be reproduced in toto. It reads :

> # New Delhi, the 12th April, 1962.##
>
> G.S.R. No. 486 - In exercise if powers conferred by the proviso to sub-section (2) of Section 1 of the Delhi Rent Control Act, 1958 (59 of 1958), the Central Government hereby extends all the provisions of the said Act :-
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> (a) to the areas which immediately before the 7th April, 1958, were included in the Notified Area Committee, Najafgarh and the Notified Area Committee, Narela; and
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> (b) to the localities mentioned in the schedule to the notification of the Municipal Corporation of Delhi No. F-9/5/59-R&S, dated the December, 1959, published in the Delhi Gazette Part IV, dated the 7th January 1960, and which by virtue of that notification have formed part of the urban areas within the limits of the Municipal Corporation of Delhi.
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> # No. 35/8/61-Delhi-I A. V. VENKATASUBBAN, DEPUTY SECRETARY.##

5. The Subordinate Judge, very rightly observed that there was no dispute between the parties that parties mauza Chowkri Mubarakabad was included within the limits of Delhi Municipal Corporation by the notification dated January 7, 1960. He pointed out that there was no indication of a sub-division of Khasra 203 showing that any part of it was divided or separately numbered.

6. The disappointed plaintiff landlord was, however, not content with so obviously correct a finding. He appealed to the District Judge who agreed entirely with the trial Court and also recorded a finding of fact that Khasra 203, situated in the mauza or revenue estate of Chowkri Mubarakabad, was covered by the notifications. It seems to us that no other inference was reasonably possible.

7. The plaintiff respondent seems in a gambling spirit, to have decided to try his luck by a second appeal to the High Court. What surprise us is that a learned Judge of the Delhi High Court without considering the objects of the notifications or discussing any principal of construction of documents which could indicate that a point of law had really arisen for decision before him, decided to set aside the concurrent findings of fact, and, thereby, patently exceeded the jurisdiction of the High Court under Section 100, Civil Procedure Code. We need hardly say that there cannot be any doubt that he did so. We are surprised that the law laid down by this Court, and, before that, by the Judicial Committee of the Privy Council should have been so completely ignored. By way of example we may refer to the following cases : Deity Pattabhiramaswamy v. S. Hanyamayya (AIR 1959 SC 57); Sri Sinna Ramanuja Jeer v. Shri Ranga Ramanuja Jeer ((1962) 2 SCR 509 : AIR 1961 SC 1720); Nedunuri Kameswaramma v. Sampati Subha Rao ((1963) 2 SCR 208 : AIR 1963 SC 884); Bhusawal Borough Municipality v. Amalgamated Electricity Co. Ltd. ((1964) 5 SCR 905 :

AIR 1966 SC 1652); Secy. of State v. Rameswaram Devasthanam (AIR 1934 PC 112 : 61 IA 163); Anup Mahto v. Mita Dusadh (AIR 1934 PC 5 : 61 IA 93); Sahebrao Narayanrao Deshmukh v. Jaiwantrao Yadaorao Deshmukh (AIR 1933 PC 171 : 60 IA 231).

8. It is urged on behalf of the appellants that the construction of a document is always a question of law. Reliance was placed upon Meenakshi Mills, Madurai v. C.I.T., Madras (1956 SCR 691 : AIR 1957 SC 49 : (1957) 31 ITR 28) and Nedunuri Kameswaramma v. Sampati Subha Rao (supra). This Court has never laid down that inferences from contents of a document of a document always raise questions of law. Indeed in Nedunuri Kameswaramma's case, this Court observed (at pp. 215-216) :

> A construction of documents (unless they are documents of title) produced by the parties to prove a question of fact does not involve an issue of law, unless it can be shown that the material evidence contained in them was misunderstood by the court of fact. The documents in this case, which have been the subject of three separate considerations, were the Land Registers the Amarkam, and Bhooband Accounts and the Adangal Registers, together with certain documents derived from the zamindari records. None of these documents can be correctly described as a document of title, whatever its evidentiary value otherwise.

9. We think that, unless interpretation of a document involves the question of application of a principle of law mere inferences from or the evidentiary value of a document generally raises only a question of fact.

10. We think that, if the learned Judge of the High Court had carted to consider the provisions of law relating to the extension of the Act to urban areas or to bear in mind the correct principal of construction of documents, or, tried to appreciate the true nature of the case before him, he could not have possibly interfered with the concurrent findings of two courts below simply because the number of the Khasra in which the house of respondent lay was not mentioned against both the portions of Chowkri Mubarakabad but wholly against Lekhu Pura. In so far as the assumption, from the entries in Column 5 of the notification could be that the whole of No. 203 fell in Lekhu Pura, it was an obviously erroneous assumption. A clerical error was the most that was indicated by such an entry. But, even so, it left no doubt that the whole khasra 203 was duly notified.

11. Section 1 of the Delhi Rent Control Act reads :

> 1. (1) This Act may be called the Delhi Rent Control Act, 1958.
>
> (2) It extends to the areas included within the limits of the New Delhi Municipal Committee and the Delhi Cantonment Board and to such urban areas within the limits of the Municipal Corporation of Delhi as are specified in the First Schedule :

Provided that the Central Government may, by notification in the Official Gazette, extend this Act or any provision thereof, to any other urban area included within the limits of the Municipal Corporation of Delhi or excluded any area from the operation of this Act or any provision thereof.

12. It is evident that the proviso does not require the mention of anything more than the urban area which is to be included or excluded from the limits of the municipal corporation. That area was sufficiently clearly indicated by entries in columns 2 and 3 meant for the revenue estate or mauza and for the colony or the village. It is clear from these that the whole of mauza Chowkri Mubarakabad and the whole of Onkar Nagar and Lekhu Pura were meant to be notified. The mere

fact that the last column was not filled up by whoever drew up the notification in such a manner as to show precisely where each khasra number lay did not affect the question whether the area to be included was sufficiently indicated or not. The well-known principles of interpretation applicable to such cases are : (a) Firstly, a document must be construed as a whole. (b) Secondly, it has to be so construed as not to reduce what was meant or being done by it to a patent absurdity. (c) Thirdly, if any entry of a column appears of have been carelessly made, so as not to give a give a correct indication of what was otherwise clearly capable of being inferred from the objects and rest of the contents of such a notification, the slight error, due obviously to inadvertence, would not matter on an application of the principle false demonstrates non nocet. A deliberate intention to omit a part of a khasra number the whole of which is given in the notification of January 7, 1960, could not possibly be inferred.

13. When we look at Section 507 of the Delhi Municipal Corporation Act, 1957, we find the relevant part runs as follows :

> 507. Notwithstanding anything contained in the foregoing provisions of this Act, -
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> (a) the Corporation with previous approval of the Central Government may, by notification in the Official Gazette, declare that any portion of the rural area shall cease to be included therein and upon the issue of such notification that portion shall be included in and form part of the urban areas :
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> (b) the Corporation with the previous approval of the Central Government may, by notification in the Official Gazette, -
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> (i) exempt the rural area or any portion thereof from such of the provisions of this Act as it deems fit,
>
> (ii) levy taxes, rates, fees and other charges in the rural areas or any portion thereof at rates lower than those at which such taxes, rates, fees and other charges are levied in the urban areas or exempt such areas or portion from any such tax, rate, fee or other charge;

14. Thus, we find that the provisions of Section 1(2) of the Act as well as of Section 507(a) and (b) of the Delhi Municipal Corporation Act refer only to "areas" and not to mere khasra nos. which are convenient divisions for the purposes of indicating what lay within each area. The khasra is often spoken of as the "village map". Khasra for "abadi" areas even indicate the type of construction which may lie within a particular number or the use to which a piece of land was being put. The term "urban area" or "rural area" is used for much larger units than khasra nos. It would, obviously, be quite impossible to think of one particular number, within an "abadi" area, left out or dropped deliberately, without any rhyme or reason, from the notification mentioned above. No conceivable reason has been suggested for such an omission. Indeed, there is not even an omission the effect of which may have been helpful to the appellant. It was only a case where the whole number is shown against one village only instead of being shown against two.

15. The learned High Court Judge, by basing his whole judgement on a farfetched conjecture from supposed omission of No. 203 in column 5, against Onkar Nagar, adopted a construction of the notification, if that is what the learned Judge was doing, which was quite unintelligible with reference to the facts of the case or purposes of such notifications. The learned Judge would have

been well advised to rest content with the obviously correct position that what the two courts below had done was to arrive at a pure finding of fact as to whether a particular khasra number containing the house in question was included within a mauza to the whole of which the provisions of the Act had been plainly extended. In view of all the facts of the case, no other conclusion was reasonably possible.

16. Consequently, we allow this appeal, by special leave, with costs throughout, set aside the judgement of the High Court and dismiss the plaintiff's suit.

17. As no counsel appeared to hear the judgment today's costs are disallowed to both parties.

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